



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 17, 1998

Ms. Carol Vaughan  
General Counsel  
Texas School for the Deaf  
P.O. Box 3538  
Austin, Texas 78764

OR98-0738

Dear Ms. Vaughan:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113821.

The Texas School for the Deaf (the "School") received a request for "copies of timecards and supporting documentation for exempt employees of the school's Business Division for the period of December 1, 1996 through October 31, 1997." (Emphasis in original). You inform us that the School has released to the requestor portions of the requested information. You assert, however, that portions of the information are excepted from required public disclosure pursuant to section 552.102 of the Government Code.

Section 552.102(a) of the Government Code excepts from public disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The test to be applied to information claimed to be protected under section 552.102 is the same test formulated by the Texas Supreme Court in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) for information claimed to be protected under the doctrine of common-law privacy as incorporated by section 552.101. *See Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Section 552.101, which excepts from disclosure information that is confidential by law, incorporates the common-law right to privacy. Information must be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

We have reviewed the submitted information. We conclude that the School must withhold from disclosure the information you marked in documents 1-7 and 9-12 based on Government Code section 5525.102. *See id.* We also note that questions concerning the cost of copies of public information may be directed to the General Services Commission.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Kay Hastings".

Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/rho

Ref.: ID# 113821

Enclosures: Submitted documents

cc: Mr. Charles C. Hoffman, III  
4503 Shavano Woods  
San Antonio, Texas 78249  
(w/o enclosures)